

Appl. No. 10/050,511  
Amdt. dated July 16, 2003  
Reply to Office Action of Apr. 18, 2003

### **REMARKS**

This Amendment is submitted in response to the outstanding Office Action mailed April 18, 2003. At that time, claims 1-33 were pending in the application. In the Office Action, claims 1-9, 11, 13, 15-20, 22, 24, and 25 were rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,454,298 to Hardig et al (hereinafter "Hardig"). Claims 10, 12, 14, 21, 23, 26-33 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Hardig in view of U.S. Patent No. 6,336,651 to Mramor et al (hereinafter "Mramor").

By this paper, claims 14 and 25 have been cancelled and claims 1 and 15 have been amended. Additionally, Figures 1 and 3 have been amended. In view of these amendments and the following remarks, reconsideration and allowance of claims 1-13, 15-24, and 26-33 is respectfully requested.

### **AMENDMENTS TO THE DRAWINGS**

The present paper is submitted to correct errors found in Figures 1 and 3. More specifically, Figure 1 contained a typographical error with respect to the lead line of reference number 102 and Figure 3 had erroneously omitted reference number 150 that corresponds to the first point. By this paper, these errors have been corrected and new Figures 1 and 3 have been submitted.

### **REJECTION OF CLAIMS 1-9, 11, 13, 15-20, 22, 24, AND 25 UNDER 35 U.S.C. §102(e)**

The Examiner rejected claims 1-9, 11, 13, 15-20, 22, 24, and 25 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,199,898 to Hardig. *See* Office Action page 2. By this paper, claim 25 has been cancelled. With respect to claims 1-9, 11, 13, 15-20, 22, and 24, the Applicants respectfully traverse this rejection.

It is well settled that a claim is anticipated under 35 U.S.C. §102(e) only if "each and every element as set forth in the claim is found, either expressly or inherently described, in a

Appl. No. 10/050,511  
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single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). As a result of this paper, claims 1-9, 11, 13, 15-20, 22, and 24 require that the peripheral region comprises an upper part and that a connector is located along the upper part to secure the inflatable curtain to the automobile. To the extent that Hardig’s lower edge 48 may be considered a peripheral region comprising an upper part, there is no teaching or disclosure in Hardig that a connector is located along an “upper part” of the non-inflatable region 40.

Therefore, because Hardig fails to teach all of the limitations found in claims 1-9, 11, 13, 15-20, 22, and 24, Hardig does not anticipate these claims under §102(e). Withdrawal of this rejection is respectfully requested.

**REJECTION OF CLAIMS 10, 12, 14, 21, 23, AND 26-33, UNDER 35 U.S.C. §103(a)**

The Examiner rejected claims 10, 12, 14, 21, 23, 26-33 under 35 U.S.C. §103(a) as being unpatentable over Hardig in view of Mramor. *See* Office Action page 3-4. By this paper, claim 14 has been cancelled. With respect to claims 10, 12, 21, 23, and 26-33, the Applicants respectfully traverse this rejection.

**A Prima Facie Case of Obviousness Has Not Been Made**

The Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness. It is well settled that the PTO has the burden to establish a *prima facie* case of obviousness. MPEP §2142. “If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.” *Id.* A *prima facie* case of obviousness is established only if the Examiner shows that (1) there is some teaching, suggestion, or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference

Appl. No. 10/050,511  
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teachings; (2) there is a reasonable expectation of success; and (3) the prior art teaches or suggests all of the claim limitations. *See id.*

1. There is No Teaching Or Motivation To Combine Hardig and Mramor

The mere fact that references can be combined or modified does not render the resultant combination obvious unless there is some teaching that suggests the desirability of the combination. *See e.g., In re Mills*, 16 USPQ2d 1430, 1432 (Fed. Cir. 1990). In other words, even if all of the claimed elements are disclosed by the references, the claimed invention cannot be said to be obvious without some objective evidence of record that indicates why one of ordinary skill in the art would have been prompted to combine the teachings of the references and arrive at the claimed invention. *See* MPEP §2143.01; *In re Lee*, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

In the present case, Hardig discloses an airbag in which non-inflatable regions 40 and inflatable finger-like extension 50 have been sewn along the bottom of the airbag. The purpose of these regions is to provide an airbag that has sufficient tension along its lower edge to ensure that the occupant is not ejected from the vehicle during a crash, yet at the same time, does not require large amounts of inflation gas to fully inflate and protect the occupant. *See e.g., Hardig*, Col. 2, lines 13-31; Col. 6, lines 20-47. Mramor, on the other hand, does not teach or disclose anything related to either tensioning to the lower edge of the airbag or reducing the amount of required inflation gas; rather Mramor is a completely independent and distinct airbag system in which a fill tube is positioned in continuous engagement with a portion of the housing. *See e.g., Mramor*, Col. 5, lines 56-65.

Based upon these fundamental differences in structure and purpose, the Applicants submit that there is no objective evidence that indicates why one of ordinary skill in the art would have been led to combine the teachings of Hardig with Mramor. As such, this combination of references does not render the present claims *prima facie* obvious under §103(a). Withdrawal of this rejection is respectfully requested.

2. The References Teach Away From The Applicants' Invention

The Applicants further submit that there can be no finding of *prima facie* obviousness because Hardig and Mramor teach away from the claimed invention. Teaching away from the Applicants' invention defeats any assertion of *prima facie* obviousness. *See e.g.*, MPEP §2145.

Hardig teaches a system that requires that the lower edge 48 (which the Examiner asserts to be the "peripheral region") be detached and disconnected from the vehicle. *See e.g.*, Figures 1 and 2. Indeed, if the lower edge 48 were attached to the vehicle Hardig's system would not function as a safety device because such a connection would prevent the airbag from descending from the roof rail and covering the vehicle side during a crash. Such a teaching and disclosure by Hardig contradicts and directly teaches away from the Applicants' invention in which the peripheral region of the airbag is attachable to the vehicle via the connectors on the upper part.

Likewise, Mramor also fails to teach a system in which the airbag's peripheral region is attachable to the vehicle via connectors. Rather, Mramor teaches that the fastener 116 (which the Examiner asserts to be the connector) engages and connects the headliner 26 (which the Examiner asserts to be the *stiffening element*) to the vehicle. *See e.g.*, Mramor, Col. 3, lines 26-30; Figure 4.

Because the disclosure of Hardig and Mramor would lead one of ordinary skill any from an airbag system in which the airbag's peripheral region is attachable to the vehicle via connectors, these references contradict and directly teach away from the Applicants' invention. As a result, these references do not render the Applicants' claims *prima facie* obvious under §103(a). Withdrawal of this rejection is respectfully requested.

3. The Combination Would Render Hardig Unsatisfactory For Its Intended Purpose

The Applicants also submit that combining Hardig with Mramor in the manner suggested by the Examiner is improper because it would require render Hardig unsatisfactory for its

Appl. No. 10/050,511  
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intended purpose. It is well settled that if the proposed modification or combination would render the primary reference unsatisfactory for its intended purpose, then the references are insufficient to render the Applicants' claims *prima facie* obvious under §103(a). *See e.g.*, MPEP §2143.01.

In the present case, Hardig provides an airbag that is intended to protect a vehicle occupant during a crash by having the lower edge 48 and the gas receiving regions 38 descend from the roof rail to cover the side portions of the vehicle. However, if Hardig were combined with Mramor in the manner suggested by the Examiner, Hardig's lower edge 48 would become bound and connected to the vehicle via one or more connectors. Such a connection would prevent the lower edge 48 from descending from the roof rail during an accident. As a result, Hardig would become incapable and unsatisfactory at performing its intended purpose of protecting a vehicle occupant during a crash. Therefore, the combination of Hardig and Mramor is improper and does not render the Applicants' claims *prima facie* obvious under §103(a). Withdrawal of this rejection is respectfully requested.

### **CONCLUSION**

In view of the foregoing, Applicants submit that claims 1-13, 15-24, and 26-33 are in a condition for immediate allowance. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Appl. No. 10/050,511  
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Respectfully submitted,



Sally J. Brown  
Reg. No. 37,788  
Attorney for Applicants

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Autoliv ASP, Inc.  
3350 Airport Road  
Ogden, Utah 84405  
Telephone: (801) 625-4800